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EXAMINER

CHAU, COREY P

ART UNIT	PAPER NUMBER
2644	

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/784,434

Applicant(s)

BERTRAM, BRIAN

Examiner

Corey P Chau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/2/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent:

2. Claims 1-3, 9-11, and 13-16 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent Application Publication No. 20030058097 to Saltzstein et al. (hereafter as Saltzstein).
3. Regarding Claim 1, Saltzstein discloses a device to alert medical personnel (i.e. system, method and apparatus for sensing and communicating status information from a portable medical device) comprising: an audio sensor (250,209) adapted to detect an audio signal from a medical device (101); and an interface adapted to activate a call device in response to the detection of the audio signal (page 2, paragraph 0021).
4. Regarding Claim 2, Saltzstein discloses the audio sensor is a microphone (209).
5. Regarding Claim 3, Saltzstein discloses the interface is a relay (page 2, paragraph 0021).
6. Regarding Claim 9, Saltzstein discloses a driver and a radio transmitter adapted to generate a unique signal and transmit the unique signal to a destination (Fig. 1; page 2, paragraph 0019).
7. Regarding Claim 10, Saltzstein discloses a radio transceiver adapted to transmit and receive signals (Fig. 1; page 2, paragraph 0019).

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8. Regarding Claim 11, Saltzstein discloses a method of alerting personnel that a medical device is sounding an audible tone (i.e. system, method and apparatus for sensing and communicating status information from a portable medical device), the method comprising: detecting an audible tone generated by a medical device (250,209) (page 3, paragraph 0026); and activating a call device to transmit a signal to a destination (page 2, paragraph 0021).
9. Regarding Claim 13, Saltzstein discloses selecting a mode of operation (page 6, paragraph 0048).
10. Regarding Claim 14, Saltzstein discloses the destination is a central medical station (page 2, paragraph 0021).
11. Regarding Claim 15, Saltzstein discloses the signal includes identification, and wherein the identification is displayed at the destination to inform the personnel of the medical device that is sounding the audible tone (Figs. 4A-E).
12. Regarding Claim 16, Saltzstein discloses comparing the audible tone to a group of audible tones to determine the criticality of the audible tone (page 3, paragraph 0026).

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 4, 5, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 20030058097 to Saltzstein in view of U.S. Patent No. 4473821 to Yang et al (hereafter as Yang).

15. Regarding Claims 4 and 5, Saltzstein discloses the sensing device 250 also comprises a microphone 209 for receiving audible signals from the speaker 112 of the portable medical device 101. In one embodiment, the sensing device 250 and microphone 209 determine the state of the portable medical device 101 by detecting the presence or absence of an audible signal produced by the speaker 112. In other embodiments, the sensing device 250 can be configured to distinguish various status signals by distinguishing different audible signals. For instance, the sensing device 250 can be configured to monitor the duration of audible signals, or the duration between audible signals, produced by the speaker 112 to determine a particular status or to filter false alarms. In other illustrative examples, the sensing device 250 can distinguish different volumes, tones, waveforms, frequencies, etc., to determine a particular status (page 3, paragraph 0026). It would have been obvious to one having ordinary skill in the art to seek known method to detect the presence or absence of an audible signal and/or to distinguish different audible signals, such as that of Yang. Yang for example, discloses filters (46,48,50,52) (i.e. an adjustable filter adapted to select a range of frequencies of the audio signal to be detected by the audio sensor for further processing) to pass frequencies generated by the signal generators and to block all other audio frequencies received by the pick up device. The output from the filters is fed to a frequency detector (i.e. frequency counter), which detects if all frequencies are

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present. The frequency detector provides a signal to a variable threshold circuit to provide some alarm action (Figs. 2 and 3; column 4, lines 21-51). It would have been obvious to one having ordinary skill in the art to employ any known method to detect the presence or absence of an audible signal and/or to distinguish different audible signals. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize filters, a frequency detector, and a variable threshold circuit to pass frequencies generated by the signal generators, to block all other audio frequencies received by the pick up device and to detects if all frequencies are present, and to provide some alarm action in order to detect the presence or absence of an audible signal and/or to distinguish different audible signals.

16. Claim 12 is essentially similar to Claim 5 and is rejected for the reasons stated above apropos to Claim 5.

17. Claim 6 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 20030058097 to Saltzstein.

18. Regarding Claim 6, Saltzstein discloses the sensing device 250 also comprises a microphone 209 for receiving audible signals from the speaker 112 of the portable medical device 101. In one embodiment, the sensing device 250 and microphone 209 determine the state of the portable medical device 101 by detecting the presence or absence of an audible signal produced by the speaker 112. In other embodiments, the sensing device 250 can be configured to distinguish various status signals by distinguishing different audible signals. For instance, the sensing device 250 can be

configured to monitor the duration of audible signals, or the duration between audible signals, produced by the speaker 112 to determine a particular status or to filter false alarms. In other illustrative examples, the sensing device 250 can distinguish different volumes, tones, waveforms, frequencies, etc., to determine a particular status (i.e. sample and store a plurality of audio signals generated by the medical device)(page 3, paragraph 0026). Saltzstein does not expressly disclose a microprocessor, however it would have been obvious to one having ordinary skill in the art that the time the invention was made to utilized a microprocessor to distinguish various status signals by distinguishing different audible signals.

19. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 20030058097 to Saltzstein in view of U.S. Patent No. 6778090 to Newham.

20. Regarding Claim 7, Saltzstein does not expressly disclose a time delay adapted to select the time delay before the interface activates the call device. However it would have been obvious to one of ordinary skill in the art to provide such a time delay in order to prevent improper or false activation of call device as taught by Newham.

21. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 20030058097 to Saltzstein in view of U.S. Patent No. 4539560 to Fleck et al. (hereafter as Fleck).

22. Regarding Claim 8, Saltzstein does not expressly a reset switch adapted to reset the interface. However it would have been obvious to one having ordinary skill in the art to provide such a reset switch in order to reset the interface to normal operation as taught by Fleck.

23. Claims 17, 18, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 20030058097 to Saltzstein in view of U.S. Patent No. 4473821 to Yang.

24. Claim 17 is essentially similar to Claims 1, 4, 5, and 6 and is rejected for the reasons stated above apropos to Claims 1, 4, 5, and 6.

25. Claim 18 is essentially similar to Claims 1, 4, 5, and 6 and is rejected for the reasons stated above apropos to Claims 1, 4, 5, and 6.

26. Claim 19 is essentially similar to Claims 1, 3, and 6 and is rejected for the reasons stated above apropos to Claims 1, 3, and 6.

27. Claim 20 is essentially similar to Claim 10 and is rejected for the reasons stated above apropos to Claim 10.

### ***Conclusion***

28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey P Chau whose telephone number is (703)305-0683. The examiner can normally be reached on Monday - Friday 9:00 am - 5:00 pm.




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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W Isen can be reached on (703)305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

November 15, 2004



**FORESTER W. ISEN**  
**SUPERVISORY PATENT EXAMINER**